

**Ordinance No. 529**

**AN ORDINANCE OF THE CITY OF DUNSMUIR ADDING CHAPTER 17.32  
ESTABLISHING REGULATIONS AND PROCEDURES FOR MEDICAL MARIJUANA  
DISPENSARIES**

Section 17.32.010. Purpose.

The voters of the State of California affirmed the medical use of marijuana by voting for Proposition 215 (codified as Health and Safety Code section 11362.5). The intent of this Proposition was to enable persons who are in medical need to marijuana to be able to obtain and use it without fear of criminal prosecution. In order for this to occur, there must be places which dispense marijuana to those who qualify for its use in accordance with state law.

The purpose of this ordinance is to protect the public safety, health and welfare of the residents of Dunsmuir by regulating the operation of medical marijuana dispensaries, and to restrict the location of medical marijuana dispensaries to specific portions of the commercial zone, which currently permit uses most closely approximating those of medical marijuana dispensaries.

Section 17.32.020. Medical Marijuana Dispensary.

A medical marijuana dispensary ("Dispensary") is a facility where marijuana is made available for medical purposes in accordance with Health and Safety Codes section 11362.5 et. seq. (Proposition 215).

Section 17.32.030. Nonconforming Use.

No Dispensary that distributed, sold, or provided marijuana to persons covered by the definitional categories listed in Health and Safety Code section 11362.5 et seq. prior to the enactment of the ordinance shall be deemed to have been a legally established use under the provisions of this Code, and such use shall not be entitled to claim legal nonconforming status pursuant to section 17.16.070. Dispensaries licensed to do business in the City of Dunsmuir prior to the enactment of this ordinance shall have 180 from its final adoption to apply for and receive a conditional use permit pursuant to the ordinance, in order to remain in operation.

Section 17.32.040. Conditional Use Permit

A. No person or persons shall operate a medical marijuana dispensary in the City of Dunsmuir except in compliance with a conditional use permit issued pursuant to Chapter 17.20.

B. The application for a conditional use permit shall be filed by the proposed operator of the Dispensary, and shall be co-signed by the owner of the lot or parcel which is the subject of the application, or his or her authorized agent.

C. All property owners within 1000 feet of the proposed dispensary shall be given notice of the public hearing at which the application for the conditional use permit is heard, in compliance with section 17.20.040.

Section 17.32.050. Allowed Districts.

Medical Marijuana Dispensaries may be permitted only in the C-2 district, and only in that portion of the district bounded by Oak Street on the south and Spring Street on the north, including those portions of the district actually located on Oak and Spring Streets.

Section 17.32.060. Additional Location Restrictions.

A. No Dispensary shall be located with 100 feet of a residential zone.

B. Distance shall be measured from the property line of the parcel containing the Dispensary to the property line of the nearest parcel that is found in a residential zone, using the most direct vehicle or pedestrian route, whichever is shorter.

Section 17.32.070. Finding for Issuance of a Medical Marijuana Dispensary Conditional Use Permit.

A. The Planning Commission, or, if applicable, the City Council, shall grant a conditional use permit for a dispensary only if the applicable criteria specified in sections 17.32.040 (above) are met, and each of the findings specified in section B (below) can be made.

B. In addition to the general findings required in section 17.20.050, a conditional use permit for a Medical Marijuana Dispensary shall be granted only if the Planning Commission or City Council makes all of the additional findings of fact:

1. The Medical Marijuana Dispensary, as proposed and at the location requested in the application, will not create an adverse impact on surrounding uses; and

2. The Medical Marijuana Dispensary, as proposed and at the location requested in the application, will be compatible with adjacent uses; and

3. The proposed Medical Marijuana Dispensary will not result in the aggravation of crime problems in the area, nor will it make law enforcement unduly difficult.

C. The Planning Commission, or, if applicable, the City Council, shall deny the application where the information submitted by applicant and/or presented at the public hearing fails to satisfactorily substantiate each such finding.

Section 17.32.080. Conditions.

In addition to any general conditions imposed pursuant to Chapter 17.32.070, a conditional use permit for a Medical Marijuana Dispensary shall include each of the following addition conditions:

1. The use shall be conducted in strict compliance with the provisions of the Proposition 215 (Health and Safety Code section 11362.5 et. seq.).
2. No persons under the age of eighteen shall be permitted in the Dispensary at any time.
3. All employees must be eighteen years or older.
4. Owners, operators, and employees (paid and unpaid) are required to undergo a criminal background check at his/her expense, and no one convicted of felony in any state may own, operate, or be an employee of a Dispensary.
5. No retail sales of any products other than medical marijuana or medical marijuana related products are permitted at the Dispensary.
6. Sale of food products containing medical marijuana is prohibited unless the Dispensary is in compliance with applicable Siskiyou County health regulations.
7. All medical marijuana transactions shall occur at the Dispensary, and medical marijuana shall be dispensed directly to the patient or designated caregiver. No owner, operator, employee, or volunteer may provide any product to any patient or designated caregiver at any location other than inside the Dispensary building.
8. Dispensary days and hours of operation are restricted to 9:00 a.m. to 7:00 p.m., Sunday through Saturday.
9. On-site cultivation of medical marijuana, other than individual starter plants, is not permitted at any dispensary location.
10. Consumption of any medical marijuana or medical marijuana product (including smoking) is prohibited in, on, or adjacent to the permitted premises.
11. The property owner and/or operator shall be required to report any illegal activity occurring on the site or associated with the Dispensary.
12. All signs displayed at a Dispensary shall be in accordance with the City of Dunsmuir sign ordinance.
13. Each Dispensary shall display a sign at its entrance, in a legible and visible manner, conveying the following information:
  - a. Days and hours of operation.
  - b. Emergency contact information.
  - c. Notice that persons under the age of eighteen are not allowed in the Dispensary.
  - d. Notice that all illegal activity shall be reported to law enforcement authorities.

e. Notice that smoking or other methods of consumption of medical marijuana is prohibited in, on, or in the vicinity of the Dispensary.

14. This ordinance shall take effect 31 days after the date of adoption and the City Clerk shall certify to the adoption thereof and cause its publication according to law.

The foregoing Ordinance was passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote:

Ayes:  
Noes:  
Abstain:  
Absent:

CITY OF DUNSMUIR

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk